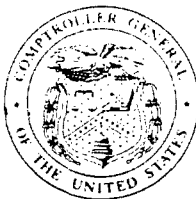


13094

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-193403;
B-193411; B-193418
MATTER OF:

DATE: March 12, 1980

DIGEST:

Security Assistance Forces and
Equipment oHG Reconsideration

[Request for]

DLG 01384

Where specifications restrict purchase of smoke detectors to photoelectric-type, allegations that agency is engaged in unwarranted and unjustified campaign to preclude from consideration ionization-type smoke detectors are untimely when not made prior to closing dates for receipt of offers under solicitations in question and prior decision dismissing as untimely protest based on those allegations is affirmed. However, agency advises that it will no longer limit purchases to photoelectric-type smoke detectors.

Security Assistance Forces and Equipment oHG (SAFE) has requested reconsideration of our decision in Security Assistance Forces and Equipment oHG, B-193403, B-193411, and B-193418, August 14, 1979, 79-2 CPD 119, in which we dismissed as untimely SAFE's allegations that the Department of the Army (Army) was engaged in an "unwarranted and unjustified campaign" to preclude the purchase of ionization-type smoke detectors for use in Army-owned family housing in the Federal Republic of Germany. The Army had restricted its purchases to photoelectric-type smoke detectors because it believed local German law, applicable to the Army under Article 53 of the Supplementary Agreement to the NATO Status of Forces Agreement, required it to enter into a series of costly maintenance contracts with the manufacturer of an ionization-type smoke detector or its authorized representative for the life of the smoke detector.

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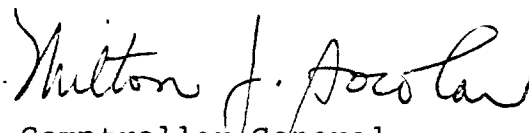
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SAFE maintains that we incorrectly concluded its allegations regarding the Army's attempts to preclude ionization-type smoke detectors were untimely. In this regard, SAFE asserts that ionization-type smoke detectors were not unacceptable per se under the solicitations involved and therefore its allegations filed after the closing dates for receipt of offers were timely. We disagree. Both solicitations required Electro Signal LAB smoke detectors or their equivalent and contained a technical description describing the Electro Signal LAB detector as a photoelectric-type smoke detector. Under these circumstances, we think it is clear that the solicitations required photoelectric-type smoke detectors and that SAFE's allegations were untimely. Accordingly, our prior decision is affirmed.

We note, however, that the Army, by letter dated February 13, 1980, has advised us that it now believes local German law "places no practicable limitations upon the acquisition and installation of smoke detectors of whatever type in Army-owned housing" in Germany and that "there is no distinguishing characteristic between ionization and photoelectric smoke detectors which would support acquisition of either in preference to the other." Accordingly, the Army advises, it will in the future acquire smoke detectors for use in Army-owned housing without regard to type.



For the Comptroller General
of the United States